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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,393	04/19/2004	Shui-Mu Chen		9904

7590 01/31/2006  
Shui-Mu Chen  
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Chang-Hua City, 500  
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EXAMINER

ARYANPOUR, MITRA

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

7741 0001

<b>Office Action Summary</b>	Application No. 10/826,393	Applicant(s) CHEN, SHUI-MU	
	Examiner Mitra Aryanpour	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Contestabile et al (5,545,093).

Regarding claim 1, Contestabile et al discloses a billiard chalk assembly comprising: a case (the broadest reasonable interpretation of case would include second housing 14) having an open top (see figure 7) and a rubbing plate (see figure 2; cap 82 which can also have an abrasive surface; also see column 5, lines 19-23) is connected to an outside of the case, a chalk piece (chalk block shown in figure 7) received in the case and a top surface of the chalk piece extending from the open top of the case (see figure 2), and a cover (the broadest reasonable interpretation of cover would include first housing 12) having a hole (recessed, flat annular surface 22) defined through a top thereof and the case (14) removably received (threadably engaged 26/28) in the cover (12) from an open bottom of the cover, the top surface of the chalk piece contacting an inside of the top of the cover (see figures 1 and 6).

Regarding claim 2, Contestabile et al shows the rubbing plate (cap 82) is located opposite to the open top of the case (housing 14; see figure 2).

Regarding claim 3, Contestabile et al shows the outside (the base of case 14) of the case (14) includes a recess (best seen in figures 2, 4 and 5) defined therein and a groove (the inner

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diameter of disc 62) is defined in a surface of the recess, a periphery of the rubbing plate (82) engaged with the groove.

Regarding claim 4, Contestabile et al shows the height of the case (14) is two third of a height of the cover (12; best seen in figure 1).

### ***Response to Arguments***

3. Applicant's arguments filed 19 August 2005 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., movably received as in figures 1 and 2 and the chalk is limited to contact the open top of the cover) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification and/or drawings, limitations from the specification and/or drawings are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 1 as presented merely states "the case movably received in the cover". There is no particular structure associated with this limitation in the claim. Contestabile et al shows the cover (first housing 12) is movably received by the case (second housing 14). The upper portion of the case (second housing 14) is recessed as shown in figure 2, which in turn is received within the cover (1<sup>st</sup> housing 12). Whether the two elements threadably engage does not mean that they are not removably received. With regards to applicant's assertion that the chalk as recited in claim 1 is limited to contact the open top of the cover. Such has not been claimed. With regards to applicant's assertion that "how can the rubbing plate 82 be engaged with the so called groove in the surface of the recess". Unclear as to how applicant is interpreting the Contestabile et al reference. As can be seen in figures 2, 4 and 5, the periphery of the rubbing plate (82) is in

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contact with the inner and outer surface of disc 62. it is noted that the broadest reasonable interpretation of *periphery* would include *the external boundary or surface of a body*.

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 10:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

26 January 2006



**MITRA ARYANPOUR**  
**PRIMARY EXAMINER**